

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CASSANDRA CABRERA,
DARNELL CABRERA, and ALYSSA
CABRERA, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

RICARDO URBINA,

Respondent-Appellant,

and

ELIZABETH URBINA,

Respondent.

In the Matter of CASSANDRA CABRERA,
DARNELL CABRERA, and ALYSSA CABRERA,
Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ELIZABETH URBINA,

Respondent-Appellant,

and

RICARDO URBINA,

UNPUBLISHED
October 21, 2003

No. 246198
Kent Circuit Court
Family Division
LC No. 00-064600-NA

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Respondent.

Before: Griffin, P.J., and Neff and Murray, JJ.

PER CURIAM.

In these consolidated appeals, respondents Ricardo and Elizabeth Urbina appeal as of right from an order terminating their parental rights to the three involved minor children pursuant to MCL 712A.19b(3)(c)(i), (g), and (h).¹ We affirm.

I

The father first argues that the circuit court deprived him of due process by holding the adjudication hearing regarding the children in his absence, and by failing to subsequently afford him an adjudication hearing before the court terminated his parental rights. The father's claim, "that terminating his parental rights without first holding an adjudication violated his due process right[s]," constitutes a legal question that this Court reviews de novo. *In re CR*, 250 Mich App 185, 203; 646 NW2d 506 (2002).

This Court has explained that when the circuit court obtains jurisdiction over children on the basis of one parent's plea of admission to allegations that the children suffered abuse or neglect, MCL 712A.2(b), the court rules and due process permit a circuit court to enter dispositional orders affecting the other parent, despite that the other parent has failed to appear in the proceedings. MCR 5.973(A)²; *In re CR*, *supra* at 202-203, 205. This Court cautioned only that, according to MCR 5.974(E)(1), the petitioner must introduce legally admissible evidence in order to terminate the parental rights of the parent who was not subject to an adjudication.³ *In re CR*, *supra* at 205-206.

Here, the father's brief on appeal acknowledges that "[a]t the adjudication hearing conducted on December 14, 2000, a visiting judge took wardship of the children by way of a plea by the mother." Because the court had jurisdiction over the children pursuant to the mother's plea to allegations of abuse and neglect,⁴ the court need not have conducted a separate

¹ Elizabeth Urbina (the mother) is the biological mother of all three children, and Ricardo Urbina (the father) is the biological father of Cassandra and Alyssa. Darnell's biological father, Salomon Cuevas, voluntarily relinquished his parental rights to Darnell at the commencement of the termination hearing, and is not a party to these appeals. Because Cuevas has no part in these appeals, we use the term "the father" solely in reference to respondent Ricardo Urbina.

² The court rules governing child protective proceedings were amended and recodified as part of new MCR subchapter 3.900, effective May 1, 2003. This opinion refers to the rules in effect at the time of the trial court's decision.

³ Like the father in *In re CR*, *supra* at 206, respondent father here raises no specific challenge to the constitutional validity of MCR 5.974(E).

⁴ The father mentions the "anemic nature" of the advice of rights the mother received before
(continued...)

adjudication with respect to the father before it could order termination of his parental rights. *In re CR*, *supra* at 203. Furthermore, at the commencement of the termination hearing, the circuit court explained that it would consider only legally admissible evidence in determining whether statutory grounds existed to warrant termination of the father's parental rights, and the court throughout the lengthy hearing struck hearsay from the record and repeatedly expressed that it would not consider hearsay evidence in rendering its dispositional decision with respect to either parent. We conclude that no violation of the father's due process rights occurred.⁵

II

The father next argues that the circuit court's failure to adhere to various court rule provisions regarding the timing of hearings and other procedural requirements deprived him of due process, which claim we also review de novo. *In re CR*, *supra* at 203.

The circuit court authorized the filing of the initial petition with respect to Cassandra and Darnell on August 11, 2000. On November 22, 2000, the court authorized the filing of the petition regarding Alyssa. The adjudication occurred on December 14, 2000. Dispositional review hearings took place on March 15, 2001, June 14, 2001, and September 12, 2001. On October 4, 2001, petitioner filed a supplemental petition requesting termination of the respondents' parental rights. At a continuation of the September 12 review hearing on December 6, 2001, the circuit court concluded that, despite petitioner's efforts to rectify the parents' neglectful behaviors, the mother and father had not made progress in addressing the domestic violence that resulted in the children's initial placements in foster care, and that "this case needs to proceed with the termination petition." Although the father asserts that the court failed to timely hold a permanency planning hearing, the record reflects that the court proceeded with termination of his parental rights within one year of entry of the court's initial dispositional order on December 28, 2000, and thus before MCR 5.973(C)(2) required that the court hold a permanency planning hearing.⁶

The termination hearing subsequently took place on ten dates between April 10 and August 8, 2002. The father alludes correctly to the fact that the termination hearings occurred

(...continued)

entering her plea, but raises no specific argument that the subsequent withdrawal of the mother's plea affected the circuit court's authority to enter dispositional orders affecting him.

⁵ While the father suggests within his statement of the question presented that he lacked appointed counsel at the adjudication hearing, we conclude that the father has abandoned this issue because he offers in his discussion of the issue no argument or authority in support of the proposition that the absence of counsel at the adjudication hearing deprived him of due process. *Alibri v Detroit/Wayne Co Stadium Authority*, 254 Mich App 545, 559; 658 NW2d 167 (2002).

⁶ Although MCR 5.973(C)(2) required the occurrence of a permanency planning hearing within 364 days "after entry of the original order of disposition," MCL 712A.19a(1) provides that "if a child remains in foster care and parental rights to the child have not been terminated, the court shall conduct a permanency planning hearing within 1 year after an original petition has been filed." (Emphasis added). Because the timing of a permanency planning hearing involves a purely procedural matter, the time frame set forth in the court rule controls. *In re Lafayette Towers*, 200 Mich App 269, 275; 503 NW2d 740 (1993).

over a longer period of time than contemplated by the court rules and statute, but does not provide citations to the specific provisions that govern the timing of a termination hearing and the issuance of an opinion regarding termination, MCR 5.974(F)(1) and (G)(1), and MCL 712A.19b(1). *McCartney v Attorney General*, 231 Mich App 722, 725; 587 NW2d 824 (1998) (explaining that this Court need not address an issue for which the appellant has not cited supporting authority).

We nonetheless presume that the father correctly notes the following procedural irregularities: (1) the period of continuation between day five (May 9, 2002) and day six (June 20, 2002) of the termination hearing exceeded the twenty-eight-day continuance period provided for within MCR 5.923(G)(2); (2) in violation of MCR 5.974(F)(1)(b), more than forty-two days elapsed between the filing of the supplemental petition for termination on October 4, 2001, and the commencement of the termination hearing on April 10, 2002; and (3) the occurrence of the adjudication hearing on December 14, 2000, took place more than sixty-three days after the children's placement in foster care on August 31, 2000, contrary to MCR 5.972(A). Despite the procedural irregularities, none of these court rules sets forth any explicit sanction for noncompliance with them. This Court has repeatedly held that in the absence of an express sanction for a trial court's departure from the relevant time periods applicable to child protective proceedings, it will not infer that a termination petition should be dismissed or an order of termination reversed merely on the basis that a violation of the time limits has occurred. *In re TC*, 251 Mich App 368, 370-371; 650 NW2d 698 (2002); *In re Jackson*, 199 Mich App 22, 28-29; 501 NW2d 182 (1993); *In re Kirkwood*, 187 Mich App 542, 545-546; 468 NW2d 280 (1991).

Furthermore, in *In re TC*, *supra* at 371, this Court observed that, pursuant to MCR 5.902(A), "[l]imitations on corrections of error are governed by MCR 2.613," which explains that a trial court's error in issuing a ruling or order, or an error in the proceedings is not a ground for this Court to reverse or otherwise disturb an order unless failure to do so would be inconsistent with substantial justice. In this case, the father entirely fails to suggest in his brief on appeal how the circuit court's failure to adhere to the timing requirements prejudiced him. We conclude that the mere violation of the court rule timing provisions does not require reversal of the order terminating the father's parental rights. *In re TC*, *supra* at 371.

This Court also has rejected the proposition that a violation of the procedural timing requirements deprives a respondent of due process.

[R]espondent claims that the procedural defect resulted in a violation of her due process rights. Due process requires that there be jurisdiction over the respondent and subject matter of the litigation and that the respondent be afforded notice of the nature of the proceedings and an opportunity to be heard. We conclude that the failure to meet the forty-two day requirement in this case did not divest the court of jurisdiction to continue to hear the matter. Further, respondent was provided a full hearing and an opportunity to be heard before the termination of her parental rights. Respondent's due process rights were not violated in this case. [*In re Kirkwood*, *supra* at 546 (citations omitted).]

Within his due process argument, the father does not challenge the circuit court's jurisdiction, or dispute that he had notice of the nature of the proceedings and an opportunity to be heard. The

record reflects that although the father could not attend the adjudication hearing or the March, June, or September 2001 review hearings, he had notice of these hearings, his counsel attended the September 2001 review hearing, and he and his counsel attended every subsequent hearing held by the circuit court, including each day of the lengthy termination hearing, during which he vigorously defended his case and offered testimony in his favor. Under these circumstances, we cannot conclude that the circuit court's procedures deprived the father of due process.

The father additionally notes correctly that Cassandra, who was eleven years of age throughout most of the termination hearing dates, did not receive written notice of some hearing dates, contrary to MCR 5.921(B)(3). The father again entirely fails to explain, however, how Cassandra's receipt of actual notice instead of written notice of the first three termination hearing dates affected his substantial rights or his due process opportunity to be heard. In the absence of any such argument, we find that the father has abandoned this allegation of error. *Alibri v Detroit/Wayne Co Stadium Authority*, 254 Mich App 545, 559; 658 NW2d 167 (2002).⁷

III

The mother raises several related claims that the circuit court's decisions at the conclusion of the termination hearing to permit her to withdraw her plea to the initial petitions' allegations of abuse and neglect, and to treat the ten-day termination hearing as a combined adjudication and termination proceeding, deprived her of due process. These claims of error involve constitutional due process issues and the interpretation of court rules, which constitute legal questions that this Court reviews de novo. *CAM Constr v Lake Edgewood Condominium Ass'n*, 465 Mich 549, 553; 640 NW2d 256 (2002); *In re CR*, *supra* at 203.

After reviewing the record, we conclude that the procedure of the circuit court in permitting withdrawal of the mother's plea at the close of the termination hearing and treating the ten-day termination hearing as a combined adjudication and termination proceeding entirely complied with the applicable court rule, MCR 5.974. On August 11 and November 22, 2000, petitioner filed the initial petitions alleging that the children were within the scope of MCL

⁷ The father lastly avers that the prosecutor engaged in misconduct when she suggested at the adjudication hearing that the father should have retained his own counsel to represent him instead of relying on representation by an appointed counsel. Applying by analogy the standard for prosecutorial misconduct applicable in criminal proceedings, we find that the prosecutor committed no misconduct that deprived the father of a fair and impartial child protective proceeding. *People v Watson*, 245 Mich App 572, 586; 629 NW2d 411 (2001). The prosecutor raised her concern of "unfair[ness] to the taxpayers" for the father to have "the benefit of retained, court-paid counsel when he always retained counsel" in his past criminal proceedings, but the court ultimately dismissed the father's appointed counsel on the basis of counsel's statements that the father had harassed her and that her relationship with the father was "very strained" and "ha[d] definitely broken down." The father suffered no prejudice from the withdrawal of his counsel because the court later appointed a substitute attorney, who vigorously represented the father throughout the remainder of the proceedings. Moreover, once again, the father fails to even allege that the prosecutor's allegedly improper remark deprived him of a fair trial. *Alibri*, *supra* at 559.

712A.2(b), because they were at risk of harm from domestic violence in the family home. On October 4, 2001, the prosecutor, on behalf of petitioner, filed a supplemental petition alleging that the children came within the scope of MCL 712A.2 and 712A.19b(3), and requesting that the circuit court terminate respondents' parental rights. MCR 5.974(A)(2). On October 25, 2001, the mother received personal service of a copy of the supplemental petition and a summons notifying her of a scheduled hearing "to rule on a request that your parental rights over the child be terminated" and, in bold print, that "this hearing may result in a temporary or permanent loss of your rights to the child(ren)." MCR 5.974(C). Both parents appeared at every stage of the termination hearing.

After granting the mother's motion to withdraw her plea, the circuit court carefully explained in its bench opinion its obligation to first "find by a preponderance of the . . . legally admissible evidence, that the children come under the jurisdiction of this court," and its ultimate finding on the basis of legally admissible evidence that "the allegations stated in both the August 11, 2000, petition and November 22, 2000, petition have been established by the preponderance of the evidence" consistent with MCR 5.974(D)(2). The court plainly and properly recognized its next obligation to find with respect to both parents "that one or more of the allegations justifies termination and falls under section 19b(3) of the Juvenile Code, again, via legally admissible, clear and convincing evidence" consistent with MCR 5.974(D)(3). The circuit court explained at length its findings that clear and convincing, legally admissible evidence established several statutory grounds warranting termination pursuant to MCL 712A.19b(3), and its opinion that termination of respondents' parental rights served the children's best interests. MCR 5.974(D)(3) and (4).

The mother first presents a mostly incoherent contention that the circuit court lacked jurisdiction over the children because of the manner in which the court treated the termination hearing as a termination at the initial dispositional hearing. Given the unpreserved nature of the mother's allegation of error, her lack of a logical argument against the court's assertion of jurisdiction over the children, and her failure to offer any authority in support of her suggestion that the court lacked jurisdiction over the children, we decline to address the merits of the mother's claim. *Belle Isle Grill Corp v Detroit*, 256 Mich App 463, 472, 480; 666 NW2d 271 (2003).

The mother further challenges the propriety of the circuit court's decision to treat the termination hearing as a combined adjudication and dispositional proceeding on the basis that it deprived her of notice concerning the adjudication. The mother acknowledges in her brief on appeal that she received notice of the contested adjudication scheduled for December 14, 2000. Although the mother suggests in her brief on appeal that her receipt of notice that she faced a hearing to address the *termination* of her parental rights prejudiced her right to receive notice of the simultaneous *adjudication* that occurred, we fail to comprehend how the mother might have contested the issue of the adjudication independently of, or differently than, the decision whether to terminate her parental rights. In the portion of her brief challenging notice, the mother offers only a vague suggestion, without further explanation, that she would not have testified at an

adjudication hearing.⁸ Because the record reflects that the mother received notice of each step of the child protective proceedings, attended the December 14, 2000, adjudication hearing and all subsequent hearings, and had ample opportunity with the assistance of counsel to cross-examine petitioner's witnesses and present testimony and other evidence in support of her position,⁹ we conclude that the mother had ample notice of the nature of the proceedings and a meaningful opportunity to present her case.¹⁰ *In re Kirkwood*, *supra* at 546.

The mother next contends that the circuit court's retroactive characterization of the termination hearing as a joint adjudication and dispositional proceeding deprived her of her right to a jury trial. Our review of the record reflects that the mother disingenuously suggests that she was never advised of her right to a jury trial. The circuit court file reflects that on November 7, 2000, the court mailed the mother a notice of the "contested adjudication" scheduled for December 14, 2000. On November 8, 2000, the mother received personal service of the initial petition and a summons and order to appear at a December 14, 2000, trial to decide "whether the court should exercise authority over the child because of neglect or abuse." The summons informed the mother that she had the right to file a written request for a jury trial "with the court within 14 days after the court gives notice of the right to jury trial or 14 days after the filing of appearance of counsel, whichever is later, but no later than 7 days before trial," consistent with MCR 5.911(B).

But the mother made no mention of her desire for a jury trial either within fourteen days of her receipt of notice of her right to do so or later in connection with her motion to withdraw her plea, and instead first mentioned her desire for a jury trial at the conclusion of the circuit court's bench opinion on September 27, 2002. We agree with the circuit court's determination that the interests of justice in this case do not weigh in favor of excusing the mother's late request for a jury trial. MCR 5.911(B)(2). The children, whose well-being constitutes the focus of the child protective proceedings and who arrived in foster care in August 2000, because of the

⁸ To the extent that the mother alludes to the court's consideration of hearsay evidence and the existence of "shifting evidentiary standards . . . and different rules of play" as irregularities that prejudiced her, we reiterate that the circuit court consistently repeated during the course of the termination hearing, within its bench opinion, and in the context of its ruling denying the parties a new trial, that it would and ultimately did consider only legally admissible evidence in reaching its decisions regarding adjudication and termination.

⁹ The prosecutor completed the presentation of petitioner's case-in-chief on April 12, 2002, the second day of the termination hearing. The mother presented witnesses over the course of approximately four days.

¹⁰ The instant case is factually distinguishable from *In re Nunn*, 168 Mich App 203, 207-209; 423 NW2d 619 (1988), which the mother cites for the proposition that the family court conducted an improper procedure. In *In re Nunn*, the probate court violated the court rules and jeopardized the respondent's right to due process by terminating her parental rights after an adjudication trial in the absence of a petition requesting such termination. In a holding inapplicable to this case, which involved many extended dispositional hearings, this Court in *In re Nunn* concluded that error requiring reversal occurred when the probate court failed to conduct a dispositional hearing before terminating the respondent's parental rights. *Id.* at 207-208.

presence of domestic violence in the family home, spent well over one year awaiting the mother's engagement in domestic violence counseling and her compliance with her other treatment plan requirements. By the time of the close of the termination hearing, the children had spent nearly two years living in foster care, where they thrived but nonetheless required permanency. The primary interests of the children would not be served by the circuit court's decision to permit the mother an adjudication trial by jury after the ten-day termination hearing.

Even assuming that a procedural error occurred that deprived the mother of her right to a jury trial at the adjudication stage, we conclude that any such error qualifies as harmless pursuant to MCR 2.613(A). MCR 5.902(A). As we further discuss next, overwhelming legally admissible evidence established that at least one statutory ground existed warranting termination of the mother's parental rights, and abundant evidence also demonstrated that termination of her parental rights served the children's best interests. In light of this evidence clearly and convincingly establishing the propriety of terminating the mother's parental rights, we cannot characterize as inconsistent with substantial justice the mother's alleged deprivation of a jury's determination, pursuant to the lower preponderance of the evidence standard, that the children fell within the jurisdiction of the circuit court. MCR 5.972(C)(1).¹¹

IV

Both the father and the mother lastly contest the circuit court's determinations that statutory grounds existed warranting termination of their parental rights, and that termination served the children's best interests. This Court reviews for clear error a circuit court's decision that a statutory ground for termination of parental rights has been proven by clear and convincing evidence and the court's decision whether termination serves a child's best interests. MCR 5.974(I); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The court's findings of fact qualify as clearly erroneous when this Court's review of the record reveals some evidence to support the findings, but leaves this Court with the definite and firm conviction that the court made a mistake. *In re Conley*, 216 Mich App 41, 42; 549 NW2d 353 (1996).

The circuit court relied in part on MCL 712A.19b(3)(g) in support of its decision to terminate both parents' rights to the children. Subsection 19b(3)(g) authorizes termination under the following circumstances:

The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

¹¹ We decline to address the mother's final subargument that the circuit court's failure to order the production of and to pay for a transcript of the December 14, 2000, adjudication hearing deprived her of due process. The mother has abandoned this issue because she provides no citations to the circuit court record where any argument by the parties or the court's decision regarding transcripts appeared, and offers absolutely no authority in support of her argument. *Belle Isle Grill Corp*, *supra* at 472; *Bloomfield Charter Twp v Oakland Co Clerk*, 253 Mich App 1, 25, 34; 654 NW2d 610 (2002).

This subsection requires clear and convincing evidence of both a parent's failure and inability to provide proper care and custody. *In re Hulbert*, 186 Mich App 600, 601, 605; 465 NW2d 36 (1990).

The following evidence clearly and convincingly establishes that the father failed to provide the children with proper care and custody. On July 31, 2000, prompted by Cassandra's request that the father move the front seat of his car forward, he reached into the back seat of the car, grabbed Cassandra's hair and chin, slammed her face into the emergency brake, struck her face and back with his cell phone, and then punched her in the face and near her ribs. At the time of this assault, the mother informed the police that the father had "a history of abusing both" Cassandra and the mother, and explained that she did not stop the assault because the father had threatened to assault her also. According to the testimony of caseworkers Kimberly Slendak and Phuong Tran, the mother, Cassandra, and Darnell expressed that domestic violence between the father and mother had occurred, and that incidents of child abuse of Cassandra also had occurred. In August 2000, the mother, who was pregnant and wore a cast on her arm, explained to Tran that the father had grabbed her arm and broken her wrist. With the exception of the period between March and October 2000, the father spent all but one year of Cassandra's life in prison, the father had no consistent employment during this seven month period, the father acted as the primary caretaker of Cassandra and Darnell for only a couple of weeks in July 2000, and the father was incarcerated for the entirety of Alyssa's life.

Clear and convincing evidence further substantiated the father's inability to provide the children with proper care and custody within a reasonable time given the children's ages. The father consistently minimized the occurrence of domestic violence within the family, to wit: (1) when the father appeared to testify at the mother's preliminary examination for assault arising from an argument of the parents during which the mother doused the father with lighter fluid, the father denied any recollection of the event; (2) during the father's testimony at the termination hearing, he suggested that the mother had accidentally spilled the lighter fluid on him during a strictly verbal argument and denied, contrary to recollections of police officers who reported to the scene, that the children heard or observed any arguing or had to call the police; and (3) the father denied recollection of the specific facts underlying the incidents giving rise to the eleven police reports that documented alleged domestic violence between the mother and father. The father additionally testified that any allegations of abuse by Cassandra against the mother constituted lies, and the father denied that he ever physically injured the children, assaulted the mother, or argued with the mother in the children's presence. The father admitted that he knowingly violated the circuit court's order prohibiting contact between him and the mother. Lastly, although the father testified at the termination hearing to his belief that he might earn parole from prison at any moment and that he could begin working and living in his father's house immediately thereafter, no indication exists that the father has been released from prison.

Abundant evidence also illustrated the mother's failure to provide the children with proper care and custody. In March 2000, while the children were present in the family home, and while pregnant and drinking to the point that she smelled heavily of alcohol, the mother doused the father's shirt in lighter fluid during an argument regarding her planned night out at the bar with her sister, prompting the children to call 911 for help. On July 31, 2000, the mother made no effort to protect Cassandra from a vicious beating by the father. Although eleven police reports existed that documented alleged domestic violence between the mother and father, the

mother denied recollection of the specific facts underlying the incidents giving rise to the reports. The mother acknowledged, however, that at least five calls were made to the police because of domestic violence between herself and the father and that sometimes the children were present.

Overwhelming evidence established the mother's inability to provide the children with proper care within a reasonable time given the children's ages. Much behavior by the mother reflected her greater concern for the father than the children. Like the father, the mother repeatedly minimized the domestic violence that occurred within the family unit. After the mother's initial report to the police of Cassandra's assault by the father, the mother denied recollection of the assault at the time of the father's preliminary examination, and, at the time of the termination hearing, continued to attribute Cassandra's injuries to a source other than the father. The mother also refused to offer testimony against the father at a preliminary examination on charges that, in May 2000, he stole property from the mother's residence and twisted the breasts of the mother and the children's maternal grandmother. Although the pregnant mother explained to Tran in August 2000 that she wore a cast because the father had broken her wrist by grabbing her arm and pushing her to the ground, at the termination hearing the mother instead testified that she herself had caused the injury when she slipped and fell. Slendak concluded that the mother's (1) consistent phone calls to and visits with the father in prison, in contravention of court orders and the mother's repeated denials that she maintained contact with the father, (2) alignment in support of the father during therapy sessions, and (3) close contact with the father during the termination hearings, signaled that she would not in the future protect the children from domestic violence by the father. The mother proclaimed at the termination hearing that she intended to reunite with the father when he was released from prison, explaining, "Well, he is my husband I don't see why not."

The mother additionally sought to diminish her own responsibility for domestic violence within the family, including the lighter fluid incident that she acknowledged the children witnessed at least in part, by blaming her short temper on a pregnancy-related chemical imbalance. While the mother recalled some occasions when the children were present at the time that the police responded to reports of domestic violence between the father and the mother, she characterized the altercations as "more verbal," but acknowledged that she sometimes threw objects at the father.

The mother's failure to accomplish the requirements of her treatment plan also substantiates her inability to provide the children with proper care and custody. *In re Trejo*, *supra* at 360-361 n 16. The mother did not maintain employment for longer than a two-month period. Although the mother completed parenting classes, she did not demonstrate good parenting skills during her visits with the children. On the contrary, the mother swore during visits, displayed jealousy of the children's enjoyment of their foster homes, blamed Cassandra for the children's foster care placements, mocked Cassandra when angry, "lost it" and yelled at Cassandra, referred to Alyssa as "fat baby," and often failed to interact with Alyssa. Slendak opined that during family therapy sessions, the mother gained absolutely no insight into her potential parental shortcomings, especially her failure to offer the children support, protect the children from domestic violence, or provide them with a safe home environment. For example, when confronted by Cassandra's anger that the mother had failed to protect her from the father's violence, the mother offered no apology, took no responsibility for the incident, and did not validate the children's fears or vow to better protect the children from the father in the future.

During the final videotaped therapy session on August 9, 2001, the mother advised the children not to tell anyone anything about the father “because they’re going to use it as an excuse not to let you come home.” After August 9, 2001, the mother only contacted the caseworkers on a couple of occasions during August and September 2001, to inquire about the children’s well-being. At the time of the termination hearing, the mother’s domestic violence counselor had concerns regarding the mother’s lack of insight and dependency,¹² and recommended that the mother engage in ongoing counseling, because she behaved defensively and offered resistance to treatment, made superficial attempts to comply with her treatment plan, tended to minimize abuse and focus on the father, and often put her own needs before the children’s safety. The mother admitted that, beginning in January 2001, she repeatedly visited and spoke with the father despite her knowledge that these communications violated a circuit court order, and that she had lied to her caseworkers that she had no contact with the father. The mother’s complete failure to even mention domestic violence in her brief on appeal signals her ongoing refusal to address the issue.

In summary, we hold that the circuit court did not clearly err in finding clear and convincing evidence that both the father and the mother failed to provide the children with proper care and custody and could not do so within a reasonable time, given the children’s ages and the nearly two-year period they had already spent in foster care. Because the evidence clearly and convincingly establishes the propriety of terminating both respondents’ parental rights pursuant to § 19b(3)(g), we need not consider the applicability of the other statutory grounds cited by the circuit court. MCL 712A.19b(3); *In re IEM*, 233 Mich App 438, 450; 592 NW2d 751 (1999).

In light of the facts that (1) because of domestic violence in their family home, the children had resided in foster care for nearly two years at the time of the termination hearing, (2) overwhelming evidence indicated that neither parent had addressed or obtained an understanding of the manner in which their violent relationship affected the children, who would remain at substantial risk of harm, and (3) after ceasing visits with the mother, Cassandra and Darnell dramatically improved their sibling relationship and interactions with others, the trial court did not clearly err in finding that termination of the father’s and the mother’s parental rights served the children’s best interests. MCL 712A.19b(5).

Affirmed.

/s/ Richard Allen Griffin
/s/ Janet T. Neff
/s/ Christopher M. Murray

¹² The mother appeared on the witness stand at the termination hearing with a large bruise above her right eye, a swollen and bruised left cheek, a black and bloodshot left eye, bruises on her chin, a cut and swollen lip, and small cuts and scratches on two fingers, all of which she incredibly attributed to her clumsy attempt to break into her own basement two or three times.